

AUCTIONEERS BOARD MEETING

MINUTES

The Virginia Auctioneers Board met on April 17, 2008, at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, with the following members present:

William C. Bryant, III
Mark T. Motley
Amy Pence
Erlita Joanne Wang

Staff present for all or part of the meeting were:

Jay W. DeBoer, Director
Saba L. Shami, Chief Deputy
Mark N. Courtney, Executive Director
Nick Christner, Deputy Director of Compliance and Investigations Division
Michelle Gowen, Administrative Assistant
Earlyne Perkins, Legal Analyst

Elizabeth Peay, Assistant Attorney General, was present at the meeting.

Finding a quorum of the Board present, Mr. Motley, Chair, called the meeting to order at 10:04 a.m.

Call to Order

Mr. Courtney noted that the Department has added many new positions to the Compliance and Investigations Division. Mr. Christner introduced the new employees and stated they are a welcome addition to the Department.

Introduction of Staff

Mr. Motley noted that he appreciates all the work that Mr. Updike does for the Auctioneers Board; he does a great job for the Board and the profession.

Recognition of Board Designee

Mr. Bryant moved to approve the agenda. Ms. Wang seconded the motion which was unanimously approved by members: Bryant, Motley, Pence, and Wang.

Approval of Agenda

Mr. Bryant moved to approve the minutes from the following meetings:

Approval of Minutes

January 17, 2008, Auctioneers Board meeting;
February 21, 2008, Informal Fact-Finding Conference; and
March 6, 2008, Informal Fact-Finding Conference.

Ms. Pence seconded the motion which was unanimously approved by

members: Bryant, Motley, Pence, and Wang.

Public Comment Period – There were no comments made to the Board.

Public Comment

Mr. Courtney informed the Board of Mr. Garten's recent resignation from the Board. Mr. DeBoer stated that new appointments are in limbo at this time but hoped that a new member would be appointed before the next Board meeting in July.

**Board Member
Resignation**

Mr. Motley turned over the position of Chair to Ms. Pence and recused himself from the meeting.

Transfer of Chair

Regarding **File Number 2007-01975, Carwile Auctions**, the Board members reviewed the Consent Order as seen and agreed to by Carwile Auctions. Ms. Wang moved to accept the Consent Order which cites a violation of 18 VAC 25-21-110 of the Board's regulations. For this violation, Carwile Auctions agrees to the following sanctions: \$1,000.00 for the violation contained in Count 1, as well as \$150.00 in Board costs for a total monetary penalty of \$1,150.00. Mr. Bryant seconded the motion which was unanimously approved by members: Bryant, Pence, and Wang.

**File Number 2007-
01975, Carwile
Auctions**

As the reviewing Board member Mr. Motley was not present during the discussion or vote.

Mr. Motley returned to the meeting and resumed the position of Chair.

Transfer of Chair

Regarding **File Number 2008-00627, Mount Vernon**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcripts and exhibits, and Summary of the Informal Fact-Finding Conference. Ms. Pence moved to accept the Summary of the Informal Fact-Finding Conference as to the facts, which cites the following violations of the Board's regulations: 18 VAC 25-21-110 (Count 1); 18 VAC 25-21-150.C (Count 2); 18 VAC 25-21-140 (Count 3); and 18 VAC 25-21-180.A.6 (Count 4). Mr. Bryant seconded the motion which was unanimously approved by members: Bryant, Motley, Pence, and Wang.

**File Number 2008-
00627, Mount Vernon**

Ms. Perkins informed the Board that Mount Vernon has had no prior violations. Mr. Bryant moved to accept the recommended sanctions as contained in the Summary of the Informal Fact-Finding Conference: \$200.00 for the violation contained in Count 1; \$650.00 and license revocation for the violation contained in Count 2; \$1,700.00 and license revocation for the violation contained in Count 3; and \$2,500.00 and license revocation for the violation contained in Count 4; for a total monetary penalty of \$5,050.00. Ms. Wang seconded the motion which

was unanimously approved by members: Bryant, Motley, Pence, and Wang.

Regarding **File Number 2008-01073, Mount Vernon**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcripts and exhibits, and Summary of the Informal Fact-Finding Conference. Ms. Pence moved to accept the Summary of the Informal Fact-Finding Conference as to the facts, which cites the following violations of the Board's regulations: 18 VAC 25-21-110 (Count 1); 18 VAC 25-21-150.C (Count 2); 18 VAC 25-21-140 (Count 3); and 18 VAC 25-21-180.A.6 (Count 4). Ms. Wang seconded the motion which was unanimously approved by members: Bryant, Motley, Pence, and Wang.

File Number 2008-01073, Mount Vernon

Ms. Perkins informed the Board that Mount Vernon has had no prior violations. Mr. Bryant moved to accept the recommended sanctions as contained in the Summary of the Informal Fact-Finding Conference: \$200.00 for the violation contained in Count 1; \$650.00 and license revocation for the violation contained in Count 2; \$2,500.00 and license revocation for the violation contained in Count 3; and \$2,500.00 and license revocation for the violation contained in Count 4; for a total monetary penalty of \$5,850.00. Ms. Wang seconded the motion which was unanimously approved by members: Bryant, Motley, Pence, and Wang.

Regarding **File Number 2008-01616, Mount Vernon**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcripts and exhibits, and Summary of the Informal Fact-Finding Conference. Ms. Pence moved to accept the Summary of the Informal Fact-Finding Conference as to the facts, which cites the following violations of the Board's regulations: 18 VAC 25-21-110 (Count 1); 18 VAC 25-21-150.C (Count 2); 18 VAC 25-21-140 (Count 3); and 18 VAC 25-21-180.A.6 (Count 4). Mr. Bryant seconded the motion which was unanimously approved by members: Bryant, Motley, Pence, and Wang.

File Number 2008-01616, Mount Vernon

Ms. Perkins informed the Board that Mount Vernon has had no prior violations. Mr. Bryant moved to accept the recommended sanctions as contained in the Summary of the Informal Fact-Finding Conference: \$200.00 for the violation contained in Count 1; \$650.00 and license revocation for the violation contained in Count 2; \$1,700.00 and license revocation for the violation contained in Count 3; and \$2,500.00 and license revocation for the violation contained in Count 4; for a total monetary penalty of \$5,050.00. Ms. Wang seconded the motion which was unanimously approved by members: Bryant, Motley, Pence, and Wang.

Regarding **File Number 2008-00457, Mount Vernon**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcripts and exhibits, and Summary of the Informal Fact-Finding Conference. Ms. Pence moved to accept the Summary of the Informal Fact-Finding Conference as to the facts, which cites the following violations of the Board's regulations: 18 VAC 25-21-110 (Count 1); 18 VAC 25-21-140 (Count 2); 18 VAC 25-21-150.C (Count 3); 18 VAC 25-21-180.A.4 (Count 4); and 18 VAC 25-21-180.A.6 (Count 5). Mr. Bryant seconded the motion which was unanimously approved by members: Bryant, Motley, Pence, and Wang.

File Number 2008-00457, Mount Vernon

Ms. Perkins informed the Board that Mount Vernon has had no prior violations. Mr. Bryant moved to accept the recommended sanctions as contained in the Summary of the Informal Fact-Finding Conference: \$200.00 for the violation contained in Count 1; \$1,700.00 and license revocation for the violation contained in Count 2; \$650.00 and license revocation for the violation contained in Count 3; \$400.00 and license revocation for the violation contained in Count 4; and \$2,500.00 and license revocation for the violation contained in Count 5; for a total monetary penalty of \$5,450.00. Ms. Wang seconded the motion which was unanimously approved by members: Bryant, Motley, Pence, and Wang.

Regarding **File Number 2007-02784, Calvin Zedd**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcripts and exhibits, and Summary of the Informal Fact-Finding Conference. Mr. Bryant moved to accept the Summary of the Informal Fact-Finding Conference as to the facts, which cites the following violations of the Board's regulations: 18 VAC 25-21-110.1.a (Count 1); 18 VAC 25-21-150.C (Count 2); and 18 VAC 25-21-180.A.6 (Count 3). Ms. Wang seconded the motion which was unanimously approved by members: Bryant, Motley, Pence, and Wang.

File Number 2007-02784, Calvin Zedd

Ms. Perkins informed the Board that Calvin Zedd has had prior violations. Mr. Motley moved to accept and amend the recommended sanctions as contained in the Summary of the Informal Fact-Finding Conference amending the sanction contained in Count 2 from \$500.00 to \$2,000.00 due to the severity of the violation as well as the previous violations to the Board's regulations: \$200.00 for the violation contained in Count 1; \$2,000.00, as amended, and license revocation for the violation contained in Count 2; and \$2,450.00 and license revocation for the violation contained in Count 3; for a total monetary penalty of \$4,650.00. Ms. Pence seconded the motion which was unanimously approved by members: Bryant, Motley, Pence, and Wang.

Regarding **File Number 2007-03360, Zedd Auctioneers, LTD**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcripts and exhibits, and Summary of the Informal Fact-Finding Conference. Ms. Pence moved to accept the Summary of the Informal Fact-Finding Conference as to the facts, which cites the following violations of the Board's regulations: 18 VAC 25-21-110.1.a (Count 1); 18 VAC 25-21-150.C (Count 2); and 18 VAC 25-21-180.A.6 (Count 3). Ms. Wang seconded the motion which was unanimously approved by members: Bryant, Motley, Pence, and Wang.

Ms. Perkins informed the Board that Zedd Auctioneers, LTD, has had prior violations. Mr. Motley moved to accept and amend the recommended sanctions as contained in the Summary of the Informal Fact-Finding Conference amending the sanction contained in Count 2 from \$500.00 to \$2,000.00 due to the severity of the violation as well as the previous violations to the Board's regulations: \$200.00 for the violation contained in Count 1; \$2,000.00 as amended, and license revocation for the violation contained in Count 2; and \$2,450.00 and license revocation for the violation contained in Count 3; for a total monetary penalty of \$4,650.00. Ms. Pence seconded the motion which was unanimously approved by members: Bryant, Motley, Pence, and Wang.

Mr. Courtney provided the Board members with information regarding the eBay Trading Assistant Program. Mr. Courtney noted that the agreement states that a Trading Assistant may not use the terms "Auction" or "Auctioneer."

Mr. Christner, Deputy Director of Compliance and Investigations Division, provided the Board members with an overview of the processes of the Compliance and Investigations division.

The Board members were provided with a comprehensive report of enforcement activity.

The Board members were provided with the February 2008 financial statements for informational purposes.

Mr. Courtney informed the Board members that the two cases on appeal for Calvin Zedd and Zedd Auctioneers, LTD, have been dismissed in the Chesapeake Circuit Court.

File Number 2007-03360, Zedd Auctioneers, LTD

Discussion of Trading Assistant Program on eBay

Overview of Enforcement Process

Comprehensive Report of Compliance and Investigations Division Activity

Review Financial Statements

Other Business

Mr. Courtney reminded the Board members that elections will be held at their next Board meeting on July 17, 2008.

Mr. Courtney notified the Board members that Karen W. O'Neal, former Deputy Director of Licensing and Regulation, had retired and that he would be assuming the duties of that role. Mr. Courtney also stated that, hopefully, a new Executive Director would be hired before the next Board meeting.

Mr. Courtney noted that the final regulations the Board members had previously approved needed some minor changes and then would be sent for Executive Branch review before being put out for the last 30 day public comment period.

Conflict of Interest forms were completed by all members present.

**Conflict of Interest
Forms**

There being no further business, the meeting was adjourned at 11:16 a.m.

Adjourn

Mark T. Motley, Chair

Jay W. DeBoer, Secretary